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In the

Supreme Court of the United States

OCTOBER TERM 1961

No. 852

B. T. WOODARD AND B. J. WOODARD,
d b a WOODARD MOTOR COMPANY,
Petitioners,

v.

GENERAL MOTORS CORPORATION,
Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

PETITION FOR REHEARING

IRVING L. GOLDBERG,
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Counsel for Petitioners.

Of Counsel:
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Dallas 1, Texas.

WARLICK PRESS INC. — 2263 VALDINA STREET — DALLAS — ME 1-3130

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PETITION FOR REHEARING

Petitioners present their Petition for a Rehearing of this Court's Order dated May 21, 1962, denying the Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit and in support thereof respectfully show:

GROUNDS FOR REHEARING

Since the entry of the Order in this case denying the Petition for the Writ of Certiorari, a Petition for a Writ of

Certiorari has been filed in this Court in case No. 991; Pierce Ford Sales, Inc. v. Ford Motor Co., in which review is sought of a decision of the United States Court of Appeals for the Second Circuit in an action brought under Public Law 1026—84th Congress. The questions presented in case No. 991 are related to the questions presented in this case. Case No. 991, as here, presents the question as to whether Public Law 1026—84th Congress, designed to assure the automobile dealer of an opportunity to secure a judicial determination, irrespective of the contract terms, as to whether the manufacturer has failed to act in good faith in terminating, cancelling, or not renewing his franchise, has in change of traditional contract law concepts, introduced a new concept into the franchise relationship, the concept of good faith as defined in the statute, which requires a construction of the franchise agreement different from the interpretations theretofore indulged. Case No. 991, as here, presents the question as to whether a court on evidence from which an inference of coercive conduct within the purview of Public Law 1026—84th Congress may be drawn may apply traditional contract law concepts, rule as a matter of law that no failure to act in good faith exists and deny the dealer his right of trial by jury. The filing of the Petition in case No. 991 demonstrates the fact that the questions presented in this case are important questions of federal law which have not been but should be decided by this Court.

CONCLUSION

For the foregoing reasons, it is respectfully urged that this Petition for Rehearing be granted and that, upon further

consideration. Writ of Certiorari issue to the United States Court of Appeals for the Fifth Circuit.

Respectfully submitted,

IRVING L. GOLDBERG,
2232 Republic National Bank
Building,
Dallas 1, Texas,
Counsel for Petitioners.

Of Counsel:

WILLIAM P. FONVILLE,
2232 Republic National Bank Building,
Dallas 1, Texas.

CERTIFICATE OF COUNSEL

I, Irving L. Goldberg, Counsel for the above named petitioners, do hereby certify that the foregoing Petition for Rehearing is presented in good faith and not for delay and that it is restricted to the grounds specified in Rule 58, subdivision 2, of the rules of this Court.

Counsel for Petitioners.

PROOF OF SERVICE

I, Irving L. Goldberg, Counsel for petitioners herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the day of June, 1962, I served copies of the foregoing Petition for Rehearing on the respondent by mailing copies in duly addressed envelopes, with first-class postage prepaid, to Mr. Ira Butler, W. T. Waggoner Building, Fort Worth, Texas, and Mr. Charles L. Stephens, Cantey, Hanger, Johnson, Scarborough and Gooch, First National Building, Fort Worth, Texas, counsel for respondent.

IRVING L. GOLDBERG,
2232 Republic National Bank
Building,
Dallas 1, Texas,
Counsel for Petitioners.